IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 489 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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H.R. SHAIKH & 35 - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

NOTICE UNSERVED for Petitioner(s) : 1, 4,9 - 10, 13,16 - 18,22 - 24,26 - 27, 30, 36,NOTICE SERVED for Petitioner(s) : 2 - 3,5 - 8, 12, 14,19 - 20, 25,28 - 29,31 - 35.UNSERVED-EXPIRED (N) for Petitioner(s) : 11, 15, 21,

MR SP HASURKAR, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

and

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 21/01/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)

1. In this petition the petitioners, 36 in number, have prayed that the respondents be directed to promote them to the posts of Deputy Mamlatdars and in the process, if it is found necessary, even to revert the persons who have passed the Lower Revenue Qualifying Examination [LRQE] beyond the specified period and the specified chances or those who have not passed the LRQE at all. The other prayers in the petition are incidental thereto.

2. It is the say of the petitioners that they are the employees of the Revenue Department in the District of Kheda and they were appointed as Clerks, Clerk-cum-Typists and Typists through the Centralized Recruitment Scheme. They passed the Pre-service Examination conducted under the Centralized Recruitment Scheme. They also passed thereafter the Subordinate Service Departmental Examination [known as 'SSD Examination'] and subsequently they have even cleared the LRQE prescribed by the Gujarat Lower Revenue Qualifying Examination Rules, 1978 within the specified chances i.e. within three chances. It is also their say that they are fairly senior in the seniority list of the Deputy Mamlatdars and the persons qualified to be Deputy Mamlatdars in Kheda District. It is their grievance that despite the fact that they are required to be treated senior to the persons who have cleared the LRQE beyond the specified chances, their case for promotion is not being

considered and persons who have passed LRQE beyond the specified chances and even the persons who have not passed the said examination have been promoted ahead of them to the posts of Deputy Mamlatdars. The petitioners have, therefore, contended that the respondents be given direction to follow the judgment delivered by this Court dated 16th December, 1983 in Special Civil Application No. 2860 of 1983 and its allied matters as confirmed by the Apex Court by judgment dated 2nd May, 1986 in Civil Appeals Nos. 1675/1984, 713-14/1978, 1807/1984 and Writ Petition No. 4265/1978 with Writ Petitions No. 11085-94/1984.

2.1. The record of the petition shows that no counter has been filed to the petition by the respondents.

3. At the hearing, it is stated by Mr. Hasurkar, Ld. AGP on instructions of the Officer present in the Court and also upon written information given to him with forwarding letter dated 20th January, 2006 addressed to the Government Pleader, Gujarat High Court, Ahmedabad by the Collector, Kheda, that all the petitioners have now been promoted as Deputy Mamlatdars and the grievance of the petitioners made in this petition now does not survive. He has further stated that these petitioners have been promoted during the period 1988 and 1992. To support his statement, Mr. Hasurkar also

produces the copy of the aforesaid letter and the statement annexed thereto giving detailed information with regard to each petitioner and date of his promotion and his present status, which is ordered to be taken on record.

4. It may be noted here that on behalf of the petitioners, the petition was filed by Mr. Mohit S Shah [as he then was], who has already been elevated to the Bench of this Court. Hence, usual notices to the petitioners were issued requiring them to make alternative arrangement. The cause list shows that the notices are unserved so far petitioners no. 1, 4, 9, 10, 13, 16, 18, 22 and 24 are concerned. So far petitioners no. 2, 3, 5, 8, 12, 14, 19, 20, 25 and 28 are concerned, they have been served. Petitioners no. 11, 15 and 21 are unserved because they have expired. In normal course when some of the petitioners are unserved, fresh notices ought to have been issued by this Court calling upon them to make alternative arrangement, but the same is not required to be done because of the fact that their grievance stands satisfied as per the statement made by the Ld. AGP Mr. Hasurkar, which is supported by the documents placed by him on record. We have perused the contents of the petition and in particular the prayer clauses of the petition. In none of the relief clauses the petitioners have prayed for grant of promotion with deemed date. In view of the same, nothing more is required to be done in this petition. The petition is of the year 1987. Even if this Court issues fresh notices to the unserved petitioners, it

is any body's guess when they will be served and upon service of notice whether they will make arrangement to represent their case before this Court. The experience shows that even the served petitioners of this petition have not chosen to make any alternative arrangement. We, therefore, see no purpose in resorting to the usual course. Since the relief as prayed for in this petition by the petitioners stands satisfied, there is no useful purpose for them to prosecute this petition any further. In other words, now the petition has become infructuous. Hence it is disposed of as having become infructuous. Interim relief, if any, stands vacated. Rule discharged.

[Kshitij R Vyas, J.]

[Akshay H Mehta, J.]

* Pansala.